

LAW OFFICES  
**BLOOSTON, MORDKOFKY, DICKENS, DUFFY & PRENDERGAST, LLP**

HAROLD MORDKOFKY  
BENJAMIN H. DICKENS, JR.  
JOHN A. PRENDERGAST  
GERARD J. DUFFY  
RICHARD D. RUBINO  
MARY J. SISAK  
D. CARY MITCHELL

2120 L STREET, NW  
WASHINGTON, DC 20037  
  
(202) 659-0830  
FACSIMILE: (202) 828-5568

AFFILIATED SOUTH AMERICAN OFFICES

ESTUDIO JAUREGUI & ASSOCIATES  
BUENOS AIRES, ARGENTINA

ROBERT M. JACKSON  
OF COUNSEL

PERRY W. WOOFER  
LEGISLATIVE CONSULTANT

EUGENE MALISZEWSKYJ  
DIRECTOR OF ENGINEERING  
PRIVATE RADIO

ARTHUR BLOOSTON  
1914 – 1999

May 23, 2007

**WRITER'S CONTACT INFORMATION**

202-828-5538  
cary@bloostonlaw.com

*Via ECFS Electronic Filing*

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

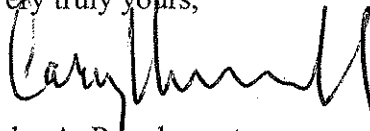
Re: 700 MHz Guard Band Comments of Radiofone Nationwide PCS, L.L.C.  
PS Docket No. 06-229, WT Docket No. 06-150, WT Docket No. 06-169;  
WT Docket No. 96-86

Dear Ms. Dortch:

On behalf of Radiofone Nationwide PCS, LLC ("Radiofone"), licensee of Station WPRV424 (Gulf of Mexico MEA – Channel Block B) in the Upper 700 MHz Guard Band Radio Service, we hereby submit Radiofone's initial comments on the Upper 700 MHz re-banding proposals set forth in the Commission's *Further Notice of Proposed Rulemaking* in the above-captioned dockets.<sup>1</sup>

Please contact the undersigned counsel should you have any questions.

Very truly yours,



John A. Prendergast  
D. Cary Mitchell  
Counsel to Radiofone Nationwide PCS, L.L.C.

Att

<sup>1</sup> See 72 FR 24238 (May 2, 2007) ("*Further Notice*").

**Radiofone Nationwide PCS, L.L.C.  
111 Veterans Boulevard, Suite 700  
Metairie, LA 70005**

May 23, 2007

***Via Electronic Filing***

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-B204  
Washington, DC 20554

**Re: 700 MHz Guard Band Comments of Radiofone Nationwide PCS, L.L.C.**  
PS Docket No. 06-229 , WT Docket No. 06-150, WT Docket No. 06-169;  
WT Docket No. 96-86

Dear Mrs. Dortch:

Radiofone Nationwide PCS, L.L.C. (“Radiofone”) hereby submits its comments to the Commission’s *Further Notice of Proposed Rulemaking* in the above-captioned dockets. By way of background, Radiofone is a small business with its headquarters in New Orleans, Louisiana. In 2000, the company participated in the FCC’s Upper 700 MHz Guard Band auction (“Auction No. 33”) and it was a successful bidder for the B-Block (*i.e.*, 4 megahertz) license in the Gulf of Mexico MEA (granted under Call Sign WPRV424).

Last fall, the FCC sought comment on issues relating to the reallocation of 700 MHz Guard Band spectrum returned to the Commission by Nextel Communications, Inc. (“Nextel”), as well as proposals to provide greater technical, operational and regulatory flexibility to the remaining 700 MHz Guard Band licensees. Radiofone supported proposals by Access Spectrum, LLC, Pegasus Communications and others (collectively, “Access/Pegasus”) to relax certain technical and use restrictions for the Guard Bands. At the time (and due to the unique circumstances and technical challenges presented by its Gulf of Mexico service area) Radiofone did not support the Broadband Optimization Plan (or “BOP”) and the company urged the Commission to protect the rights of incumbent licensees that wished to retain their existing licenses.

As an initial matter, Radiofone applauds the Commission for replacing the Guard Band Manager regime in favor of the more flexible spectrum leasing policies and rules adopted in the Secondary Markets proceeding. Radiofone also supports the FCC’s decision to eliminate rules that previously limited the ability of Guard Band licensees to act as service providers directly, or to lease more than 49.9% of their spectrum capacity to an affiliate. Taken together, these rule changes should make available to Radiofone a

wider range of options as it continues to examine various business opportunities in the wake of Hurricane Katrina, which had a devastating economic impact on the entire Gulf region.<sup>1</sup> In this regard, by April of 2006, the Bush Administration had sought \$105 billion for repairs and reconstruction in the region, making it the costliest natural disaster in US history.<sup>2</sup>

With respect to the proposals contained in the Commission's *Further Notice*, Radiofone continues to believe that its best option may be to retain the 4 megahertz of spectrum associated with its B-Block license along with the ability to deploy high-power high-site transmission facilities as permitted under the current rules. This would allow Radiofone to provide service over a larger area using fewer transmitters and having less infrastructure at risk of damage or loss in the event of a subsequent storm. With Radiofone obligated to provide substantial service to the Gulf service area by January 1, 2015, the company is confident that the increased flexibility provided under the relaxed Guard Band operating rules will allow it to meet this obligation well before the build-out deadline.

To the best of Radiofone's knowledge, there are currently no 700 MHz public safety networks currently operating or planned for the Gulf of Mexico MEA. So long as Radiofone's guard band operations are limited to the Gulf, and provided that Radiofone's guard band operations do not interfere with public safety or commercial operations in any adjacent land-based service areas, Radiofone should be allowed to operate its licensed facilities as permitted under the existing rules, or under whatever revised rules the Commission should adopt. Again, the unique characteristics of the Gulf of Mexico service area suggest that it may not be feasible or desirable for Radiofone to deploy low-power cellular architecture for its operations, so the FCC should not require Radiofone to operate under any new or revised technical standards. BOP proponents have indicated their willingness to work around Radiofone's service area, so Radiofone does not anticipate that its fellow guard band licensees would object to this arrangement.<sup>3</sup>

Finally, if the FCC should choose to adopt one of the revised Upper 700 MHz band plans that is based on a modified guard band – such as Proposal 3, Proposal 4 or Proposal 5, Radiofone would support a proposal raised in discussions with Access Spectrum that would grant B-Block licensees a “put” option, whereby the winning bidder for the D-Block under Proposal 3 (or the winning bidder for the E-Block under Proposal 4 or Proposal 5) would be obligated to purchase Radiofone's B-Block license for half of

---

<sup>1</sup> According to a report prepared by ExxonMobil Corporation, Hurricane Katrina caused the evacuation of almost 80 percent of the manned platforms in the Gulf of Mexico, destroying 40 and severely damaging many more. See ExxonMobil 2005 Corporate Citizenship Report, available online at [http://www.exxonmobil.com/Corporate/Citizenship/CCR5/gulf\\_of\\_mexico.asp](http://www.exxonmobil.com/Corporate/Citizenship/CCR5/gulf_of_mexico.asp).

<sup>2</sup> See also, St. Onge, Jeff; Epstein, Victor. "Ex-chief says FEMA readiness even worse." Boston.com. April 1, 2006. [http://www.boston.com/news/nation/washington/articles/2006/04/01/ex\\_chief\\_says\\_fema\\_readiness\\_even\\_worse/](http://www.boston.com/news/nation/washington/articles/2006/04/01/ex_chief_says_fema_readiness_even_worse/)

<sup>3</sup> See Access Spectrum/Pegasus Reply Comments in WT Docket No. 06-169 at 21, 22.

its winning bid price for the Gulf of Mexico license, *provided that*, the alternative to exercising the “put” would allow Radiofone to be “grandfathered” (*i.e.* allowing it to retain a 4 MHz B Block licensee in the Gulf that has been moved down by 1 MHz into 761-763/791-793 MHz). Because there are currently no 700 MHz public safety operations in the Gulf (and since Radiofone would not benefit from any public safety narrowband consolidation efforts in any case), Radiofone should not be required to bear any expenses arising from narrowband channel consolidation efforts.

Radiofone looks forward to cooperating with its fellow guard band licensees and the Commission in their continued 700 MHz re-banding efforts.

Respectfully Submitted,  
**RADIOFONE NATIONWIDE PCS, L.L.C.**

A handwritten signature in dark ink, appearing to read 'W. Harrell Freeman', is positioned above the printed name.

W. Harrell Freeman  
Vice President